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7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2013-456

12 **THERESA RENAE RUTHERFORD**  
3455 E. Barhite Street  
13 Pasadena, CA 91107

**A C C U S A T I O N**

14 Registered Nurse License No. 224208

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
21 of Consumer Affairs.

22 2. On or about July 31, 1972, the Board of Registered Nursing (Board) issued  
23 Registered Nurse License No. 224208 to Theresa Renae Rutherford (Respondent). The  
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on June 30, 2014, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following  
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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1       7.     Section 2762 states, in pertinent part:

2        "In addition to other acts constituting unprofessional conduct within the meaning of this  
3 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this  
4 chapter to do any of the following:

5        ....

6        "(b) Use any controlled substance as defined in Division 10 (commencing with Section  
7 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
8 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
9 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
10 ability to conduct with safety to the public the practice authorized by his or her license.

11       "(c) Be convicted of a criminal offense involving the prescription, consumption, or  
12 self-administration of any of the substances described in subdivisions (a) and (b) of this section,  
13 or the possession of, or falsification of a record pertaining to, the substances described in  
14 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
15 thereof."

16       8.     Section 2764 provides, in pertinent part, that the expiration of a license shall not  
17 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or  
18 to render a decision imposing discipline on the license.

19                                   **REGULATORY PROVISIONS**

20       9.     California Code of Regulations, title 16, section 1444 states, in pertinent part:

21        "A conviction or act shall be considered to be substantially related to the qualifications,  
22 functions or duties of a registered nurse if to a substantial degree it evidences the present or  
23 potential unfitness of a registered nurse to practice in a manner consistent with the public health,  
24 safety, or welfare."

25                                   **COST RECOVERY**

26       10.    Section 125.3 provides, in pertinent part, that the Board may request the  
27 administrative law judge to direct a licensee found to have committed a violation or violations of

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1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Conviction of a Substantially Related Crime)**

5 11. Respondent is subject to disciplinary action under sections 2761, subdivision (f) and  
6 490, in conjunction with California Code of Regulations, title 16, section 1444, in that  
7 Respondent on or around March 5, 2012, she was convicted of one misdemeanor count of  
8 violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% and more, by  
9 weight, of alcohol in her blood] in a criminal proceeding entitled *The People of the State of*  
10 *California v. Theresa Renae Rutherford* (Super. Ct. Los Angeles County, Case No. 1PS02223).  
11 The circumstances surrounding the conviction are that on or about June 25, 2011, Respondent  
12 drove a vehicle while under the influence of alcohol during which she collided with multiple  
13 yellow, sand filled protective drums. Respondent denied consuming any alcoholic beverages to  
14 officers that arrived on the scene noting that she was a nurse and on call at the time.  
15 Respondent's blood alcohol was subsequently measured and determined to be 0.226% on the first  
16 reading and 0.222% on the second. As a result of the conviction, The Court placed Respondent  
17 on 3 years probation, with terms and conditions.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Dangerous Use of Alcohol)**

20 12. Respondent is subject to disciplinary action under section 2761, subdivision (a), as  
21 defined in section 2762, subdivision (b), in that Respondent used alcoholic beverages to an extent  
22 or in a manner dangerous or injurious to herself, another person, or the public, when she operated  
23 a motor vehicle with a blood alcohol level well beyond the legal limit. Complainant refers to, and  
24 by this reference incorporates, the allegations set forth above in paragraph 11, as though set forth  
25 fully.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Conviction Involving the Consumption of Alcohol)**

3 13. Respondent is subject to disciplinary action under section 2761, subdivision (a), as  
4 defined in section 2762, subdivision (c), in that on or about March 5, 2012, Respondent was  
5 convicted of a crime involving the consumption of alcohol. Complainant refers to, and by this  
6 reference incorporates, the allegations set forth above in paragraph 11, as though set forth fully.

7 **PRAYER**

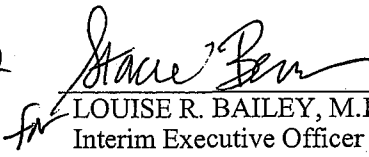
8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
9 and that following the hearing, the Board issue a decision:

10 1. Revoking or suspending Registered Nurse License No. 224208, issued to Theresa  
11 Renae Rutherford;

12 2. Ordering Theresa Renae Rutherford to pay the Board the reasonable costs of the  
13 investigation and enforcement of this case, pursuant to Business and Professions Code section  
14 125.3; and

15 3. Taking such other and further action as deemed necessary and proper.

16 DATED: December 5, 2012

17    
18 LOUISE R. BAILEY, M.ED., RN  
19 Interim Executive Officer  
20 Board of Registered Nursing  
21 Department of Consumer Affairs  
22 State of California  
23 Complainant

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